IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 134 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

KANTIBHAI DEVABHAI VANKAR & Others.

Appearance:

Mr. K.P. Raval, APP for appellant.

MR AJ PATEL for Respondents.

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 07/12/2000

ORAL JUDGEMENT

The respondents were charged in the Court of Judicial Magistrate (F.C.), Balasinor, for the offences punishable under Section 324, 323,337, 504 and 114 Indian Penal Code in Criminal Case No. 460 of 1987. The learned Judicial Magistrate (F.C.), Balasinor, vide judgment and order dated August 25, 1989 had acquitted the respondents from the charges framed against them. The State of Gujarat has filed this appeal against the order of acquittal which was admitted by this Court

(Coram: K.R. Vyas, J.) on September 19, 1994.

2. During the pendency of the appeal in this Court, complainant Paragbhai Mithabhai and the respondents have amicably settled their dispute due to intervention of leading members of their village. A joint Purshis has been filed which is signed by the complainant Paragbhai Mithabhai and the respondents, inter alia, stating that to bring peace in the village and to bring happiness between the two families, they have decided to settle the dispute. The Purshis, which is signed by the complainant and the respondents, is taken on record.

3. Having gone through the Record & Proceedings of the case, and the arguments advanced by the learned counsel for the parties, in my view, the order of acquittal recorded by the learned Judicial Magistrate (F.C.), Balasinor, in Criminal Case No. 461 of 1997 does not suffer from any infirmity. The order of acquittal is just and proper and does not call for any interference in this appeal.

4. This is an acquittal appeal in which the Court would be slow to interfere with the order of acquittal. Infirmities in the prosecution case go to the root of the matter and strike a vital blow on the prosecution case. In such a case, it would not be safe to interfere with the order of acquittal more particularly when the evidence has not inspired confidence of learned Judicial Magistrate (F.C.) who had an advantage of observing demeanour of witness. On overall appreciation of evidence, I am satisfied that there is no infirmity in the reasons assigned by learned Judicial Magistrate (F.C.) for acquitting the respondents. Suffice it to say that learned Judicial Magistrate (F.C.) has given cogent and convincing reasons for acqutting the respondents and learned Additional Public Prosecutor has failed to dislodge the reasons given by learned Judicial Magistrate (F.C.) in order to convince me to take the view contrary to the one already taken by the Court of Judicial Magistrate (F.C.). Therefore, the acquittal appeal deserves to be dismissed.

5. Hence, this appeal is dismissed.

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